S.B. CIVIL WRIT PETITION NO.2839/2005

Smt. Lachudi Vs. Board of Revenue and others.

Date : 13.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. PR Singh, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner’s grievance is against the orders which were passed in appeal of the respondent no.4 in mutation proceedings.

Brief facts of the case are that according to learned counsel for the petitioner, the respondent no.4 was wife of the petitioner’s son. The petitioner’s son (husband of respondent no.4) died and thereafter, the respondent no.4 contracted marriage with petitioner’s another son.

According to learned counsel for the petitioner, the respondent no.4 gave in writing that the agriculture land which was belonging to the husband of respondent no.4 may be mutated in the name of petitioner and on that, a Gram Sabha was convened and in that Gram Sabha, it was decided to open the mutation in the name of the petitioner for the agriculture field of the respondent no.4’s deceased husband.

It is submitted that the respondent no.4 preferred appeal which was allowed by the S.D.O., Parbatsar holding that opportunity of hearing was not given to the respondent no.4, therefore, the Tehsildar, Makarana may pass appropriate order after giving opportunity of hearing to the respondent no.4. The said order was challenged by the petitioner by filing appeal before the Additional Divisional Commissioner, Ajmer which was dismissed on 6.9.2002 and the petitioner's revision petition against the said order was also dismissed on 4.5.2005 by the Board of Revenue.

According to learned counsel for the petitioner, the respondent no.4 herself gave in writing that the land may be mutated in the name of the petitioner and the Sarpanch also gave a statement that Gram Sabha was convened and in open sabha, after notice to all, it was decided to mutate the name of the petitioner.

From the facts mentioned above, it is clear that the respondent no.4, who is widow of the petitioner's son, has not been given full opportunity of hearing and, therefore, the matter was remanded to the Tehsildar for passing appropriate orders for mutation.

After going through the facts of the case, I do not find that the three courts below have committed any illegality in holding that the respondent no.4 should have

been given opportunity of hearing before opening the mutation in the name of the petitioner.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya